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***Via Certified Mail –
Return Receipt Requested***

June 10, 2014

David Shissler, Director of Water Quality
Water Quality Division
City of Laguna Beach
505 Forest Avenue
Laguna Beach, CA 92651

Re: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Mr. Shissler:

NOTICE

This Notice is provided on behalf of California River Watch (“River Watch”) in regard to violations of the Clean Water Act (“CWA” or “Act”) 33 U.S.C. § 1251 *et seq.*, that River Watch believes are occurring through the operation of the City of Laguna Beach’s wastewater collection system. River Watch is sending you this letter to preserve its rights under the Clean Water Act, but we would welcome the opportunity to resolve these issues out of court.

The CWA requires that 60 days prior to the initiation of a civil action under CWA § 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of the intent to sue to the alleged violator, the Environmental Protection Agency (“EPA”) and the State in which the violations occur.

California River Watch hereby places the City of Laguna Beach, hereinafter referred to as “the City”, on notice, that following the expiration of 60 days from the date of this Notice, River Watch will be entitled to bring suit in the United States District Court against the City for continuing violations of an effluent standard or limitation, permit condition or requirement, or a Federal or State Order or Plan issued under the CWA, in particular, but not limited to CWA § 505(a)(1), 33 U.S.C. § 1365(a)(1), and consistent with the Code of Federal Regulations, and the Regional Water Quality Control Board, San Diego Region, Water

Quality Control Plan ("Basin Plan"), as exemplified by the incidents of non-compliance with the CWA by the City in the operation of its wastewater collection system, identified and outlined below.

INTRODUCTION

The City of Laguna Beach is a seaside resort and artists' community located in Southern Orange County, California, approximately 19 miles southeast of Santa Ana. Laguna Beach measures 9.8 square miles, with 7 miles of coastline. It is bordered by the Pacific Ocean on the southwest, Crystal Cove State Park on the northwest, Laguna Woods on the northeast, Aliso Viejo and Laguna Niguel on the east and Dana Point on the southeast. The population is approximately 22,700, with around 3 million visitors annually. The City's wastewater collection system consists of approximately 95 miles of pipes and 2674 manholes. The network of sewer pipes and manholes have been built over the course of approximately 90 years. The City operates and maintains 25 wastewater lift stations which serve to pump wastewater into either the Laguna South Orange County Wastewater Authority (SOCWA), or Bluebird SOCWA lift stations. The Bluebird SOCWA lift station is the City's largest lift station, pumping approximately 2.4 million gallons of wastewater each day to the South Orange County Wastewater Authority's Coastal Treatment Plant in Aliso Canyon.

The City's collection system operations are currently regulated under the Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements Order No. 2006-003-DWQ ("Statewide WDR") adopted on May 2, 2006 governing the operation of sanitary sewer systems.

The City has a history of sewer system overflows (SSOs) from its aging sewer lines. As recorded in California Integrated Water Quality System's ("CIWQS") Public SSO Reports, the City's wastewater collection system has experienced 43 SSOs between June 10, 2009 and June 10, 2014, with a combined volume of 71,209 gallons. Ninety one percent of that volume – 64,848 gallons – was discharged to surface waters.

Structural defects in the City's collection system, which allow inflow and infiltration (I/I) of rainwater and groundwater into the sewer lines, result in a buildup of pressure which causes SSOs. Overflows caused by blockages and I/I result in the discharge of raw sewage into gutters, canals and storm drains which are connected to adjacent surface waters such as Aliso Creek and the Pacific Ocean, both waters of the United States. In addition to surface overflows which discharge overland into surface waters, underground leakages (exfiltration) caused by pipeline cracks and other structural defects result in discharges to adjacent surface waters via underground hydrological connections.

The results of studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines, verify contamination of the adjacent water with untreated sewage. River Watch alleges that such discharges are continuous wherever aging, damaged, structurally defective sewer lines in the City's collection system are located adjacent to surface waters. Surface waters and groundwater become contaminated with fecal coliform, exposing people to human pathogens. The City's chronic collection system failures pose a substantial threat to public health.

Any point source discharge of sewage effluent to waters of the United States must comply with technology-based, secondary treatment standards at a minimum; and any more stringent requirements necessary to meet applicable water quality standards and other requirements. Hence, the unpermitted discharge of wastewater from a sanitary sewer system to waters of the United States is illegal under the CWA. In addition, the Basin Plan adopted by the San Diego Region, Regional Water Quality Control Board ("RWQCB") contains discharge prohibitions which apply to the discharge of untreated or partially treated wastewater.

Discharges by the City as described herein also constitute a nuisance. These discharges are either: injurious to health; indecent or offensive to the senses; or, an obstruction to the free use of property; and, occur during, or as a result of, the transportation, disposal or treatment of wastes.

The illegal discharge of untreated wastewater from the City's collection system is a significant contribution to the degradation of the Pacific Ocean and tributary waters such as Aliso Creek, with serious adverse effects on the beneficial uses of these waters. River Watch members residing in the area have a vital interest in bringing the City's operation of its collection system into compliance with the CWA.

NOTICE REQUIREMENTS

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

- 1. The specified standard, limitation, or order alleged to have been violated.**

River Watch has identified discharges of raw sewage from the City's collection system to surface waters in violation of the Statewide WDR and prohibitions of the CWA with regard to discharging a pollutant from a point source to waters of the United States, CWA § 301(a), 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f).

2. The activity alleged to constitute a violation.

River Watch has set forth narratives below describing the discharges of raw sewage to surface waters as the activities leading to violations, and describing with particularity specific incidents referenced in the CIWQS SSO Public Reports and other public documents in the City's possession or otherwise available to the City, and incorporates by reference records cited below from which descriptions of specific incidents were obtained.

3. The person or persons responsible for the alleged violation.

The entity responsible for the alleged violations is the Water Quality Division of the City of Laguna Beach, identified throughout this Notice as "the City", and those of its employees responsible for compliance with the Statewide WDR.

4. The location of the alleged violation.

The location or locations of the various violations are identified in records created and/or maintained by or for the City which relate to the City's sewage collection system as further described in this Notice.

5. The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.

River Watch has examined records of the RWQCB as to Laguna Beach's collection system for the period from June 10, 2009 to June 10, 2014. The range of dates covered by this Notice is June 10, 2009 to June 10, 2014. River Watch will from time to time update this Notice to include all violations which occur after the range of dates currently covered. Some violations are continuous, and therefore each day constitutes a violation.

6. The full name, address, and telephone number of the person giving notice.

The entity giving notice is California River Watch, referred to throughout this notice as "River Watch". River Watch is a 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, dedicated to the protection, enhancement, and restoration of the waters of California including, but not limited to, its rivers, creeks, streams, tributaries, wetlands, vernal pools, and groundwater. River Watch's southern California mailing address is 3655 Westwood Blvd., #17, Los Angeles, CA 90034. River Watch may be contacted via email: US@ncriverwatch.org, or through its attorneys.

VIOLATIONS

River Watch contends that from June 10, 2009 to June 10, 2014, the City has violated the CWA, the Basin Plan and the Code of Federal Regulations by discharging pollutants to waters of the United States from its collection system in violation of the provisions of the Statewide WDR and the CWA. The below-listed violations are reported by the RWQCB, and evidenced by the CIWQS SSO Reporting Program Database Records. Furthermore, River Watch contends these violations are continuing.

Violations	Description
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| 1825 | Collection system overflows caused by underground exfiltration. This is an event in which untreated sewage is discharged from the collection system prior to reaching the wastewater treatment plant. Underground discharges are alleged to have been continuous throughout the 5 year period from June 10, 2009 to June 10, 2014. Evidence to support the allegation of underground discharge of raw sewage exists in the City's own mass balance data regarding the number of connections in the service area, estimates of average daily volume of wastewater per connection, influent flow volumes to the SOCWA Coastal Treatment Plant reported in the City's records, video inspection of the collection system, and testing of waterways adjacent to sewer lines for nutrients, pathogens and other constituents indicating sewage contamination, such as caffeine. |
| 43 | SSOs, as evidenced in the CIWQS Interactive Public SSO Reports including the reports discussed above. Also, unrecorded surface overflows witnessed by local residents. |

REMEDIAL MEASURES REQUESTED

1. Definitions

A. Condition Assessment: A report that comprises inspection, rating, and evaluation of the existing condition of a sewer collection system. Inspection is based upon closed circuit television ("CCTV") inspections for gravity mains; manhole inspections for structural defects; and, inspections of pipe connections at the manhole. After CCTV inspection occurs, pipe conditions are assigned a grade based on the Pipeline Assessment and Certification Program ("PACP") rating system, developed by the National Association of Sewer Service Companies. The PACP is a nationally recognized sewer pipeline condition rating system for CCTV inspections.

B. Full Condition Assessment: A Condition Assessment of all sewer lines in the sewer collection system with the exception of sewer lines located within two hundred (200) feet of surface waters.

C. Surface Water Condition Assessment: A Condition Assessment of sewer lines in the sewer collection system located within two hundred (200) feet of surface waters, including gutters, canals and storm drains which discharge to surface waters.

D. Significantly Defective: A sewer pipe is considered to be Significantly Defective if its condition receives a grade of 4 or 5 based on the PACP rating system. The PACP assigns grades based on the significance of the defect, extent of damage, percentage of flow capacity restriction, and/or the amount of pipe wall loss due to deterioration. Grades are assigned as follows:

- 5 – Most significant defect
- 4 – Significant defect
- 3 – Moderate defect
- 2 – Minor to moderate defect
- 1 – Minor defect

2. Remedial Measures

River Watch believes the following remedial measures are necessary to bring the City into compliance with the CWA and the Basin Plan, and reflect the biological impacts of the City's ongoing non-compliance with the CWA:

a. Sewage Collection System Investigation and Repair

i. The repair or replacement, within two (2) years, of all sewer lines in the City's sewage collection system located within two hundred (200) feet of surface waters, including gutters, canals and storm drains which discharge to surface waters, which have been CCTV'd within the past five (5) years and were rated as Significantly Defective.

ii. Within two (2) years, the completion of Surface Water Condition Assessment of sewer lines which have not been CCTV'd during the past ten (10) years.

iii. Within two (2) years after completion of the Surface Water Condition Assessment above, the City will:

- Repair or replace all sewer lines found to be Significantly Defective;

- Repair or replace sewer pipe segments containing defects with a rating of 3 based on the PACP rating system, if such defect resulted in a SSO, or, if in the City's discretion, such defects are in close proximity to Significantly Defective segments that are in the process of being repaired or replaced;
- Sewer pipe segments that contain defects with a rating of 3 that are not repaired or replaced within five (5) years after completion of the Surface Water Condition Assessment shall be re-CCTV'd every five (5) years to ascertain the condition of the sewer line segment. If the City determines that the grade-3 sewer pipe segment has deteriorated and needs to be repaired or replaced, the City shall complete such repair or replacement within two (2) years after the last CCTV cycle.
- Beginning no more than one (1) year after completion of the Surface Water Condition Assessment, the City shall commence a Full Condition Assessment to be completed within seven (7) years. Any sewer pipe segment receiving a rating of 4 or 5 based on the PACP rating system shall be repaired or replaced within three (3) years of the rating determination.
- Provision in the City's Capital Improvements Plan to implement a program of Condition Assessment of all sewer lines at least every five (5) years. Said program to begin one (1) year following the Full Condition Assessment described above.

b. SSO Reporting and Response

i. Modification of the City's Backup and SSO Response Plan to include the method or calculations used for estimating total spill volume, spill volume that reached surface waters and spill volume recovered.

ii. For Category I Spills, creation of a listing of nearby residences or business owners who have been contacted to attempt to establish the SSO start time, duration, and flow rate, if such start time, duration, and flow rate have not been otherwise reasonably ascertained, such as from a caller who provides information that brackets a given time that the SSO began.

iii. Taking of photographs of the manhole flow at the SSO site using the San Diego Method array, if applicable to the SSO; or other photographic evidence that may aid in establishing the spill volume.

iv. Water quality sampling and testing to be required whenever it is estimated that fifty (50) gallons or more of untreated or partially treated waste water enters surface waters. Constituents tested for to include: ammonia, Fecal Coliform, E. coli and a CAM-17 metal analysis.

- The City shall collect and test samples from three (3) locations: the point of discharge, upstream of the point of discharge, and downstream of the point of discharge. If any of said constituents are found at higher levels in the point of discharge sample and the downstream sample than in the upstream sample, the City will determine and address the cause of the SSO that enters surface waters, and employ the following measures to prevent future overflows: (a) if the SSO is caused by a structural defect, then immediately spot repair the defect or replace the entire line; (b) if the defect is non-structural, such as a grease blockage or vandalism to a manhole cover, then perform additional maintenance or cleaning, and any other appropriate measures to fix the non-structural defect.

v. Creation of website capacity to track information regarding SSOs; or, in the alternative, the creation of a link from the City's website to the CIWQS SSO Public Reports. Notification to be given by the City to all customers and other members of the public of the existence of the web based program, including a commitment to respond to private parties submitting overflow reports.

vi. Performance of human marker sampling on creeks, rivers, wetlands and areas of Aliso Creek adjacent to sewer lines to test for sewage contamination from exfiltration.

c. Lateral Inspection/Repair Program

Creation of a mandatory, private sewer lateral inspection and repair program triggered by any of the following events:

- Transfer of ownership of the property if no inspection/replacement of the sewer lateral occurred within twenty (20) years prior to the transfer;
- The occurrence of two (2) or more SSOs caused by the private sewer lateral within two (2) years;
- A change of the use of the structure served (a) from residential to non-residential use, (b) to a non-residential use that will result in a higher flow than the current non-residential use, and (c) to non-residential uses where the structure served has been vacant or unoccupied for more than three (3) years;

- Upon replacement or repair of any part of the sewer lateral;
- Upon issuance of a building permit with a valuation of \$25,000.00 or more;
- Upon significant repair or replacement of the main sewer line to which the lateral is attached.

CONTACT INFORMATION

River Watch has retained legal counsel with respect to the issues raised in this Notice. All communications should be addressed to:

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Tel. 707-528-8175
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CONCLUSION

The violations as set forth in the Notice effect the health and enjoyment of members of River Watch who reside and recreate in the community of Laguna Beach. Members of River Watch use the affected watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, SCUBA diving, surfing, tide pool exploring, picnicking, wedding ceremonies, hiking, photography, painting, nature walks and the like. The members' health, use and enjoyment of this natural resource is specifically impaired by the City's alleged violations of the CWA as set forth herein.

River Watch believes this Notice sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter River Watch has cause to file a citizen's suit under CWA § 505(a) against the City for the violations of the CWA identified in this Notice.

During the 60-day notice period, however, River Watch is willing to discuss effective remedies for the violations noted. If the City wishes to pursue such discussions in the absence of litigation, it is encouraged to initiate such discussions immediately so that the parties might be on track to resolving the issues before the end of the notice period. River Watch will not delay the filing of a lawsuit if discussions are continuing when the 60-day notice period ends.

Very truly yours,


Jack Silver

JS:lhv

cc: Administrator
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1200 Pennsylvania Avenue, N.W.
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Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812

City Council
City of Laguna Beach
505 Forest Ave
Laguna Beach, CA 92651